



EAST AND HORN OF AFRICA HUMAN RIGHTS DEFENDERS NETWORK

Oral Statement

14th May 2009

On the Occasion of the 45TH Ordinary Session of the African Commission on Human and Peoples' Rights, 13th-27th May 2009, Banjul, The Gambia

Item 7: Promotion Activities

Special Rapporteur on Freedom of Expression and Access to Information in Africa

Presented by:

Hassan Shire Sheikh

Chairperson

The East and Horn of Africa Human Rights Defenders Network

Madam Commissioner,

The East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net) would like to start off by thanking the Commissioner for her latest report. The Mandate of the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights is of vital importance given the increasing restrictions on freedom of expression and the media in many countries throughout the continent.

As a network of human rights defenders working throughout the East and Horn of Africa, EHAHRD-Net would like to focus its intervention on the current restrictions on freedom of expression and the media in three countries of particular concern, Sudan, Somalia and Rwanda, with the aim of encouraging the Special Rapporteur to pay significant attention to the situation in these countries in the forthcoming months.

Systematic attacks on freedom of expression have continued in **Sudan** since the last Commission session notably through case-by-case pre-print censorship, public information bans, legislation as well as intimidation, poor treatment and arrests of journalists.

In fact, since November 2007, National Intelligence and Security Services (NISS) officials inspect the content of publications on a nightly basis and regularly order the withdrawal and replacement of articles deemed unacceptable. Editions of the private Sudanese papers are regularly banned. In April 2009, two private dailies decided to suspend their publications after several of their articles were censored. *Al-Midan* decided not to publish after 17 of its articles were censored, including opinion pieces on the draft media bill that is referred to below, as did

Ajras al-Hurriya .The latter paper had previously suspended its publication for three days in November in protest of on-going censorship.¹

The authorities continue to make use of restrictive licensing regulations and legislation as a means of thwarting the work of the independent press and silencing those resisting censorship and restrictions.

The Draft of the Press and Printed Press Material Act, 2008 has generated significant contestation by national and international human rights organisations and media; whilst repealing the very restrictive 2004 Media law, the Draft maintains the main restrictions on freedom of expression. The current draft is largely at odds with Comprehensive Peace Agreement and the Interim National Constitution which firmly guarantee freedom of expression and media.

If passed, the law would impose heavy criminal sentences and fines for infractions by the media, establish a Press Council which would lack independence, be under the supervision of the Presidency itself, and would be granted extensive regulatory powers, notably the power to impose the above mentioned criminal sanctions and to suspend newspapers. The Draft also includes registration requirements which risk imposing stringent substantive restrictions on the right to freedom of expression.

This current clampdown on the independent media is of particular concern given the situation in Darfur, which many Sudanese outside of Darfur would be largely unaware of if it were not for the media, as well as the scheduled elections for 2010 and the referendum of 2011, given that journalists, as all human rights defenders, will play a crucial part in ensuring that any abuses in these processes are brought to public and international attention.

Somalia is at present one of the deadliest places in the world to be a journalist.

The attacks on the media and media workers have come from all sides and parties involved in the conflict. In the last few months the majority of the attacks reported have been committed by the Al-Shabab Islamist militia group, which has not signed the Djibouti Peace Accords.

Journalists have been subjected to systematic attacks: arbitrarily arrested and detained without charges, threatened with imprisonment or death and intimidated at their place of work and in their homes.

The leading independent radio stations, HornAfrik, Radio Shabelle and Holy Q'uran Radio, have all been repeatedly attacked and closed since the invasion of the Ethiopian troops in 2006. More recently, Al-Shabab in particular has been closing down media stations in parts of the country under its control. According to reports, on the 26th April 2009, the group raided Radio Jubba in Baidoa, went on to close the station and arrested three of its journalists.²

At least 11 journalists have been killed since the beginning of 2007 either as a result of the generalised violence or as a result of targeted killings. The killing of Mr. Said Tahlil Ahmed, the Director of HornAfrik, on the 4th February 2009 was the most recent of such killings. Mr. Tahlil

¹ The Washington Times, Dozens of Protesting journalists arrested in Sudan, 17th November 2008

² RSF , Islamist militia closes radio station, arrests three journalists , 27th April 2009,
http://www.rsf.org/article.php3?id_article=30923

Ahmed was shot dead in Mogadishu's Bakara market by unknown gunmen. In the same attack a number of other journalists were also injured notably Mr. Mukhtar Mohamed Hirabe, of Shabelle Radio. The journalists were on their way to a press conference which had been called by the Al-Shabab. The motives of the attacks are unknown but it was reported that the killing might be linked to the extensive coverage given by HornAfrik to the recent elections in Djibouti. Mr. Said Tahlil Ahmed was the second journalist killed in Somalia in 2009 alone.³

As a result, many journalists have either been forced to exert self-censure, to go into hiding or to seek refuge abroad.

The current government restrictions on freedom of the press and expression in **Rwanda** must also be highlighted. The government, as many other governments in the region, has increasingly sought to use legislation as a means of undermining freedom of expression.

Laws on divisionism and genocide ideology are used as a powerful tool to restrict freedom of expression. The most recent example of this was the suspension of the Kinyarwanda service of the British Broadcasting Corporation (BBC) by the Minister of Information, Ms Louise Mushikiwabo, on the 25th April 2009.⁴ This suspension came after the BBC broadcast a programme analysing the country's forgiveness policies and one participant on the programme criticised the government's policy towards Hutu and its calls for the entire Hutu population to express remorse for the genocide.

The new Law on the Press, currently awaiting the President's signature, is of concern. This law institutes a range of measures which can be used by the authorities as a means of undermining, attacking and closing the private press in Rwanda.

Amongst other provisions it imposes criminal sanctions on the media. It introduces very harsh monetary requirements and provisions on the periodicity of publications both of which are clearly aimed at attacking private newspapers currently underfunded due to advertising bans who, as a result, are often forced to publish on an irregular basis. The definition of "journalist" that is stipulated in the law, makes a journalism qualification a prerequisite for registration; this is once again an easy means of cracking down on journalists perceived as too critical and outspoken. The extensive powers given to the "semi autonomous" Media Council are also of concern, notably the power to withdraw press cards from journalists.

That the primary targets of the current restrictions are private papers is unquestionable. In fact, since the 6th May 2008, the independent national newspapers, notably Umuseso, Rushyashya and Umuvugizi have been banned from attending all official events after the Information Minister, Louise Mushikiwabo, expelled representatives of these respective papers from World Press Freedom Day. The Minister justified this move by claiming that she wanted "to teach them a lesson" to become professional in their careers.

EHAHRDP-Net therefore calls on the African Commission on Human and Peoples Rights to:

- Call on relevant stakeholders to end all practices which threaten the freedom of expression and prevent human rights defenders from pursuing their legitimate work;

³ EHAHRDP, EHAHRD-Net Index UGA 002/005/2009: EHAHRD-Net vehemently condemns the killing of the HornAfrik director today, 4th February 2009

⁴ HRW, Restore BBC to the Air, 27th April 2009, <http://www.hrw.org/en/news/2009/04/27/rwanda-restore-bbc-air>, last visited on 7th May 2009

- Call on relevant stakeholders to end all practices which threaten the freedom of the press notably by, amongst other measures:
 - Ending all ill-treatment of journalists, for example arbitrary arrests, harassment and targeted killings,
 - Ending attacks on the independent media – notably pre-print censorship
 - Introducing legal reforms in line with national, regional and international standards,
 - Removing all criminal sanctions for press offences;
- Ensure strict compliance with the regional and international mechanisms put in place for the protection of the media; notably to adhere to the African Charter on Human and Peoples' Rights, which guarantee freedom of expression (Article 9);
- Call on the new Government of Unity in Somalia, as well as remaining insurgent groups, to bring an immediate end to arbitrary arrests, harassments, systematic attacks and targeted killings of all human rights defenders, and more particularly journalists;
- Call on the Sudanese government to ensure that provisions of the Comprehensive Peace Agreement (CPA) on freedom of expression and the media are thoroughly respected and that the current draft media law is significantly revised to ensure that any new legislation on the freedom of the press are in line with the provisions of the Interim National Constitution;
- Call on the Rwandan government to amend the New Media Law to ensure compliance with the country's national, regional and international legal responsibilities on freedom of expression and the press.

EHAHRDP-Net also calls on the Special Rapporteur on Freedom of Expression and Access to Information in Africa to:

- Pay specific attention to current restrictions and attacks on freedom of expression and the media in Sudan, Somali and Rwanda;
- Request an invitation to the Sudanese, Rwandan and if timely Somali governments, in order to be able to carry out missions to these countries with undue delay.

Thank you for your attention.

Hassan Shire Sheikh
Chairperson, EHAHRDP/Net

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